

1 Steve W. Berman (*pro hac vice*)
Robert F. Lopez (*pro hac vice*)
2 Theodore Wojcik (*pro hac vice*)
HAGENS BERMAN SOBOL SHAPIRO LLP
3 1301 Second Avenue, Suite 2000
Seattle, WA 98101
4 Telephone: (206) 623-7292
Facsimile: (206) 623-0594
5 steve@hbsslaw.com
robl@hbsslaw.com
6 tedw@hbsslaw.com

7 Shana E. Scarlett (SBN 217895)
Benjamin J. Siegel (SBN 256260)
8 Ben M. Harrington (SBN 313877)
HAGENS BERMAN SOBOL SHAPIRO LLP
9 715 Hearst Avenue, Suite 202
Berkeley, CA 94710
10 Telephone: (510) 725-3000
Facsimile: (510) 725-3001
11 shanas@hbsslaw.com
12 bens@hbsslaw.com
13 benh@hbsslaw.com

14 *Interim Lead Class Counsel*

15
16 UNITED STATES DISTRICT COURT
17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
18 OAKLAND DIVISION

19 EPIC GAMES, INC.,

20
21 Plaintiff, Counter-
defendant

22 v.

23 APPLE INC.,

24 Defendant,
25 Counterclaimant.
26
27
28

Case No. 4:20-cv-05640-YGR

**ADMINISTRATIVE MOTION TO SEAL
DECLARATION OF PROFESSOR
NICHOLAS ECONOMIDES IN SUPPORT
OF MOTION FOR PRELIMINARY
APPROVAL OF CLASS SETTLEMENT**

Pursuant to Federal Rule of Civil Procedure 26(c) and Local Rule 79-5, Plaintiffs move the Court to seal the Declaration of Professor Nicholas Economides.

When a party seeks to seal records, there is a “strong presumption in favor of access” that can be overcome only by “compelling reasons.” *Kamakana v. City & County of Honolulu*, 447 F.3d 1172, 1178 (9th Cir. 2006) (quotation marks omitted); *see also In re Anthem, Inc. Data Breach Litig.*, No. 15-MD-02617-LHK, 2017 WL 9614789, at *2 (N.D. Cal. Aug. 25, 2017) (applying standard to class settlements); *Thomas v. MagnaChip Semiconductor Corp.*, No. 14-CV-01160-JST, 2017 WL 4750628, at *4 (N.D. Cal. Oct. 20, 2017) (same); *Cotter v. Lyft, Inc.*, No. 13-CV-04065-VC, 2016 WL 3654454, at *1 (N.D. Cal. June 23, 2016) (same). The party seeking to seal the document or proceedings must “articulate compelling reasons supported by specific factual findings that outweigh the general history of access and the public policies favoring disclosure.” *Id.* at 1178–79 (alteration, citation, and quotation marks omitted). “In general, ‘compelling reasons’ sufficient to outweigh the public’s interest in disclosure and justify sealing court records exist when such ‘court files might have become a vehicle for improper purposes,’ such as the use of records to gratify private spite, promote public scandal, circulate libelous statements, or release trade secrets.” *Id.* at 1179 (quoting *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978)).

The Declaration of Professor Nicholas Economides includes certain information derived from discovery material that Apple designated “Confidential” or “Highly Confidential – Attorneys’ Eyes Only” under the amended protective order in this case (ECF No. 252). Developer Plaintiffs do not seek any redactions to Professor Economides’s Declaration, and do not believe there is good cause to maintain under seal any portion of the document. Quite the opposite, because Professor Economides’s Declaration relates to, and supports, a proposed class action settlement, the public and proposed Settlement Class have a compelling interest in accessing the entire document and the information it contains. The declaration should be available for public review. Pursuant to the Protective Order and Civil Local Rule 79-5(d), Defendant must now demonstrate that the designated information is sealable or must withdraw the designation of confidentiality. Developer Plaintiffs reserve all rights to oppose.

1
2 DATED: August 26, 2021

Respectfully submitted,

3 HAGENS BERMAN SOBOL SHAPIRO LLP

4 By /s/ Steve W. Berman

5 STEVE W. BERMAN (*pro hac vice*)

6 Robert F. Lopez (*pro hac vice*)

Theodore Wojcik (*pro hac vice*)

1301 Second Avenue, Suite 2000

7 Seattle, WA 98101

Telephone: (206) 623-7292

8 Facsimile: (206) 623-0594

steve@hbsslaw.com

9 robl@hbsslaw.com

10 tedw@hbsslaw.com

11 Shana E. Scarlett (SBN 217895)

Benjamin J. Siegel (SBN 260260)

12 Ben M. Harrington (SBN 313877)

HAGENS BERMAN SOBOL SHAPIRO LLP

13 715 Hearst Avenue, Suite 202

14 Berkeley, CA 94710

Telephone: (510) 725-3000

15 Facsimile: (510) 725-3001

shanas@hbsslaw.com

16 bens@hbsslaw.com

17 benh@hbsslaw.com

18 *Interim Lead Class Counsel*

19 Joseph M. Vanek (*pro hac vice*)

Eamon P. Kelly (*pro hac vice*)

20 Alberto Rodriguez (*pro hac vice*)

SPERLING & SLATER, P.C.

21 55 W. Monroe Street, 32nd Floor

22 Chicago, IL 60603

Telephone: (312) 676-5845

23 Facsimile: (312) 641-6492

24 jvanek@sperling-law.com

ekelly@sperling-law.com

25 arodriguez@sperling-law.com

26 Guido Saveri (SBN 22349)

R. Alexander Saveri (SBN 173102)

27 Cadio Zirpoli (SBN 179108)

Sarah Van Culin (SBN 293181)

28 SAVERI & SAVERI, INC.

706 Sansome Street
San Francisco, CA 94111
Telephone: (415) 217-6810
Facsimile: (415) 217-6813)
guido@saveri.com
rick@saveri.com
cadio@saveri.com
sarah@saveri.com

Kimberly A. Justice
Jonathan M. Jagher (*pro hac vice*)
FREED KANNER LONDON & MILLEN LLC
923 Fayette Street
Conshohocken, PA 19428
Telephone: (610) 234-6487
Facsimile: (224) 632-4521
kjustice@fklmlaw.com
jjagher@fklmlaw.com

Douglas A. Millen (*pro hac vice*)
Brian M. Hogan (*pro hac vice*)
FREED KANNER LONDON & MILLEN LLC
2201 Waukegan Road, #130
Bannockburn, IL 60015
Telephone: (224) 632-4500
Facsimile: (224) 632-4521
dmillen@fklmlaw.com
bhogan@fklmlaw.com

Plaintiffs' Executive Committee